



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

June 17, 2004

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From: David E. Janssen
Chief Administrative Officer

SACRAMENTO UPDATE

Budget Negotiations

Tuesday, June 15, the State constitutional deadline for the adoption of a budget passed without action. Nevertheless, the Governor held an upbeat press conference, seemingly to assure people that progress was being made, that he was engaged in productive discussions separately with the four caucus leaders, and that he was confident a budget would be adopted by the real deadline of July 1, the first day of the new fiscal year. Later that day, the Big Five – the Governor and the four caucus leaders – met for the first time for about 1½ hours to review, rather than to resolve, their differences. Following the meeting, little was said by the participants, beyond Speaker Nuñez noting that the Democrats and the Governor were about \$2.3 billion apart on overall spending, and the Governor indicating he was open to many of the things the Democrats wanted to do if they could come up with a way to pay for them without raising taxes.

Despite the optimism and amiability projected by everyone after the meeting, the Assembly is holding hearings to rally grass root support today in San Jose on IHSS wages, and tomorrow in Long Beach on higher education fees. The Governor, despite comments to the contrary at Tuesday's press conference, has scheduled a stop at a

mall in Chico today to pressure lawmakers to pass a budget on time. However, compared to the partisan and ideological confrontations of past years that led to prolonged deadlocks, these actions are little more than gentle jostling for position that should not prevent a budget from being adopted before the end of the fiscal year.

Conference Committee Actions

The Conference Committee has not met since last Thursday, June 10, at which point the members had made one pass through all the items in disagreement, resolved those that they could, and left open some of the larger items pending directions from the Big Five. Some decisions of interest to the County include:

State Funding of County Medi-Cal Eligibility Processing. In our June 7 Update, we reported that the Committee had accepted the Assembly position (which was the Governor's recommendation) to limit State payments for county Medi-Cal eligibility worker wage increases to the greater of the average COLA for State workers or the California Necessities Index. The Committee actually adopted the Senate position rejecting the unworkable COLA language, and instead directed State DHS to work with counties to develop a cost-containment plan to achieve the same savings. Consequently, the dollar impact on DPSS is likely to be the same – approximately \$5.4 million.

Child Support Augmentation. Our Sacramento representatives, working with the County Child Support Agency, were successful in securing \$1.3 million in additional State funds (which will yield an additional \$2.6 million Federal match) to replace one-time funding whose loss would result in the layoff of 40 or more staff, and a decline in child support collections. In order to obtain the funding, the Department had to promise to improve collections such that the State's share of collections would increase at a minimum, to cover the amount of additional State funding. To the extent that the Agency falls short, the difference will be subtracted from its FY 2005-06 allocation. Despite these guarantees that the State will recover its money, the State Agency opposed the augmentation which makes the item a likely candidate for a Governor's line item veto.

Proposition 42 Transportation Funds. The Governor's May Revision allocated \$383 million from anticipated Indian gaming monies for one-time transportation projects. The Conference Committee increased the assumed level of monies to \$1 billion and adopted an allocation plan that includes funding for cities and counties for local streets and roads. Since negotiations between the Administration and the Tribes have not been completed, the County's share of the funding is uncertain. But at the \$1 billion level assumed by the Conference Committee, the Department of Public Works estimates that its projected loss would drop from \$18 million under the Governor's Budget, to \$5 million.

Mental Health. Incompetent to Stand Trial Patients. The Governor's May Revision contained a proposal to shift the financial responsibility to counties for patients who were deemed Incompetent to Stand Trial and who remain in a State hospital for more than 10 days after a certificate of restoration of competency has been received by the courts. State savings were estimated at only \$360,000. The Conference Committee adopted the Senate position to reject the Governor's proposal.

VLF Realignment Backfill. The Governor's Budget proposed the elimination of the remaining backfill that compensates local governments for a reduction in commercial trailer fess approved in 2000 to conform to NAFTA. The estimated loss to the County would be \$3.7 million. Last year's budget had eliminated the backfill for the discretionary portion of the VLF. Both houses rejected the Governor's proposal.

It is important to keep in mind that the Conference Committee decisions are not final, especially those that restore funding not in the Governor's budget. As noted earlier, the Legislature's spending level may be \$2.3 billion higher than the Governor's. Until the Big Five reach agreement on an overall spending level, the Conference Committee cannot complete its work and, depending upon the level agreed to, may have to revisit and revise many of the restorations it has adopted.

Medi-Cal Redesign — Hospital Financing

In follow-up to the Administration's recent proposal to reduce the use of Intergovernmental Transfers (IGTs), and reform aspects of supplemental Medi-Cal hospital payments, the hospital industry has developed the attached talking points expressing concern about the Administration's direction. The talking points, which will be used in upcoming meetings with legislators, emphasize that IGTs are lawful, and that the Administration's direction "may prematurely erode" use of IGTs, and threaten Federal Medicaid funds supporting safety net hospitals.

Status of County-Interest Legislation

County-supported ACA 25 (Mullin), which would amend the California Constitution by permitting 17-year old citizens, who will be 18 years old by the next general election, to register and vote at that general election and at any intervening primary or special election, failed passage in the Assembly on a vote of 46-25 on June 14. Reconsideration was granted.

County-sponsored SB 1413 (Brulte and Scott), which would prohibit a person from being held liable for civil damages as a result of assisting another person to voluntarily surrender their baby to a safe-surrender site, passed the Assembly Judiciary Committee on June 15, 2004 on consent, and now proceeds to the Assembly Floor.

Each Supervisor
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We will continue to keep you advised.

DEJ:GK
MAL:JF:JR:DDN:MS:ib

Attachment

c: Executive Officer, Board of Supervisors
 County Counsel
 Local 660
 All Department Heads
 Legislative Strategist
 Coalition of County Unions
 California Contract Cities Association
 Independent Cities Association
 League of California Cities
 City Managers Associations
 Buddy Program Participants



P.E.A.C.H., INC.

Private Essential Access Community Hospitals



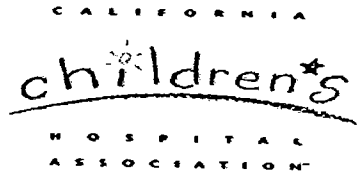
**CALIFORNIA
HEALTHCARE
ASSOCIATION**



**CALIFORNIA ASSOCIATION OF
PUBLIC HOSPITALS AND HEALTH SYSTEMS**



Attachment



Preserve Federal Medicaid Funding to California's Safety Net Hospitals

FEDERAL MEDICAID IGT FUNDS CRITICAL TO CALIFORNIA'S SAFETY NET HOSPITALS

- California's long-standing, legitimate Medicaid payment programs—Disproportionate Share Hospital (DSH) and Upper Payment Limit (UPL) programs—use intergovernmental transfers (IGTs) to match federal funds. They are fundamental to the financial survival of California's safety net hospitals, including public, children's, teaching and private safety net hospitals.
- California's federal Medicaid supplemental funds go to California safety net hospitals for the intended purposes of caring for low-income and uninsured Californians. These essential funds—which total nearly \$2 billion to California annually—are used to support emergency and trauma care for entire communities, inpatient and outpatient hospital care, high risk pediatric care, specialty services and primary and preventive care.
- California's Medicaid program ranks 51st in Medicaid spending (federal and state) per Medicaid beneficiary according to the Kaiser Family Foundation and stands far below other states in DSH payments per Medicaid and uninsured person. While there are many reasons for these disparities, the effect is clear: California is not getting a fair share of federal Medicaid funds relative to other states despite high numbers of low-income underinsured and uninsured persons and cannot sustain further cuts.

CALIFORNIA'S IGT PROGRAMS COMPLY WITH FEDERAL LAWS AND REGULATIONS

- California's Medicaid DSH and UPL supplemental payment programs operate in full compliance with federal law and regulations.
- Laws and regulations have already been put in place over the years—including state by state DSH allotments, hospital-specific DSH caps, provider tax restrictions and two changes to the UPL regulations—to prevent IGT abuses and stop inappropriate use of federal Medicaid funds by states.
- California's Medicaid DSH program has the most stringent participation standards in the country, ensuring that DSH funds go to those providers serving as the true health care safety net.
- California's Medicaid supplemental payment programs have operated under Republican and Democratic governors, as well as Republican and Democratic majorities in Congress, and have been approved by Republican and Democratic administrations.

CURRENT CMS EFFORTS TO RESTRICT IGT FUNDING INCONSISTENT WITH FEDERAL MEDICAID LAW

- CMS is attempting to require states to reduce or eliminate the use of IGTs on a state-by-state basis through waiver and State Plan Amendment processes. CMS does not have legal authority to restrict the use of IGTs without a formal rulemaking process.

CURRENT CMS EFFORTS TO RESTRICT IGT FUNDING INCONSISTENT WITH FEDERAL MEDICAID LAW (continued)

- In 1991, Congress provided explicit statutory authority permitting the use of IGTs to fund the non-federal share of Medicaid. “The Secretary may not restrict States’ use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government with a State as the non-Federal share of expenditures...regardless of whether the unit of government is also a health care provider...” 42 U.S.C. 1396b(w)(6)(A)
- The California congressional delegation has worked very hard and very successfully over the last several years to protect federal Medicaid funding to California. Among many important contributions, the California congressional delegation secured the 175% OBRA cap for California, ensured a transition period to the new UPL rules for states like California with long-standing UPL programs and, just last year, restored \$460 million in critical Medicaid DSH funding to California safety net hospitals.
- CMS should be required to tell Congress and other stakeholders its plan for ensuring that the millions of patients who rely on safety net hospitals will have access to care if IGT-funded payments are severely reduced or eliminated.

STATE'S EFFORT TO RESPOND TO CMS POSITION MAY PREMATURELY ERODE CALIFORNIA'S LEGITIMATE USE OF IGTs

- The state’s initial effort to develop a hospital financing proposal that responds to CMS’s recent positions and actions on the use of IGTs may prematurely transition California away from its legal, legitimate use of IGTs.
- The state’s commitment to keep current Medicaid funding whole and provide long-term stability for safety net hospitals is appreciated and shared by the hospital industry.
- Although the state is still in process of developing the details of its hospital financing proposal, our analysis indicates that the state’s initial draft concept would not fully protect safety net funding and could threaten hundreds of millions of dollars in federal Medicaid funds to California’s safety net hospitals.
 - The hospital industry is awaiting information from the state in response to questions we have raised so that we can more fully understand and analyze the impact of the state’s proposal to shift away from IGTs to the use of Certified Public Expenditures (CPEs).
 - Part of the impetus for the state’s shift from IGTs to CPEs appears to be the recent federal scrutiny on IGTs. Like IGTs, CPEs are a complex accounting mechanism and it is likely that their use would generate an equal level of federal examination. The uncertainty of how CMS would specifically allow California to use CPEs for its Medicaid supplemental programs could result in reduced and unpredictable funding levels to safety net hospitals.
 - With the state’s plan to submit a Medicaid waiver to the federal government in Fall 2004 and the SPCP waiver expiring December 31, 2004, the current timing is likely inadequate to fully and carefully address the many issues that are involved in potentially restructuring \$2 billion of federal Medicaid payments to safety net hospitals.
 - The loss of these funds would destabilize the safety net and jeopardize access to essential health care services for Californians throughout the state; in particular, the state’s 6.6 million Medi-Cal beneficiaries and 6.3 million uninsured would be at risk of losing services. Such a loss is inconsistent with the many efforts by Congress to protect Medicaid funding for safety net hospitals.
- The hospital industry is working in good faith with the state to consider new ideas and develop a structurally sound proposal that stabilizes funding to safety net hospitals. However, the legitimate questions that we have raised about the proposal need to be answered in order to assure that the state and hospitals’ shared goals of maintaining federal Medicaid funds and providing long-term stability for safety net hospitals are achieved.